

Application No. 09/931,896
Amendments Dated September 25, 2006
Reply to Office Action of September 8, 2006

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REMARKS/ARGUMENTS

Claim Rejections – 35 U.S.C. § 103

Following the current rejection of claims 1 to 26 under the substantially same reasons as in the previous Office Action (Office Action of March 10, 2006), the Applicant respectfully traverses the reiterated rejections.

In the response to the previous examination report, the Applicant argued that the Steinbach reference (U.S. Patent Application Publication No. 2002/0183072) and the Farrington reference (U.S. Patent Application Publication No. 2002/0089421) were not publicly available before the priority date of August 18, 2000, (the Canadian filing date) and therefore could not be cited as prior art.

In the present examination report, at page 19, the Examiner refuses to grant the Applicant the priority date of August 18, 2000, since the corresponding U.S. patent application was filed on August 20, 2001, technically more than twelve months after August 18, 2000.

However, after thorough verifications, it appears that August 18, 2001, fell on a Saturday. Accordingly and pursuant to 37 C.F.R. § 1.7(a):

(a) Whenever periods of time are specified in this part in days, calendar days are intended. When the day, or the last day fixed by statute or by or under this part for taking any action or paying any fee in the United States Patent and Trademark Office falls on Saturday, Sunday, or on a Federal holiday within the District of Columbia, the action may be taken, or the fee paid, on the next succeeding business day which is not a Saturday, Sunday, or a Federal holiday. See § 1.304 for time for appeal or for commencing civil action. (emphasis added)

Accordingly, since the next succeeding day following August 18, 2001, which was not a Saturday, Sunday, or a Federal holiday, was August 20, 2001, the Applicant respectfully believes

SEP 25 2006

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that its patent application was filed during the twelve months period and should consequently receive the full benefit of the Canadian filing date of August 18, 2000.

Consequently, since it is respectfully believed that the present patent application benefits from the priority date of August 18, 2000, and since the Steinbach and the Farrington references were not publicly available prior to August 18, 2000, the Applicant reiterates its arguments that the Steinbach and the Farrington references cannot be cited as prior art.

Conclusion

Considering the above arguments, the Applicant respectfully requests that the finality of the present examination report be withdrawn and that a timely Notice of Allowance be issued in this case for all pending claims. However, should it be found necessary or practical, the Examiner is invited to telephone the undersigned, Applicant's agent of record, to facilitate the advancement of the present application.

Respectfully submitted,
BROUILLETTE & PARTNERS LLP
Customer Number 56535

By 

Robert Brouillette
Reg. No. 31,930
1550, Metcalfe Street
Suite 800
Montréal, Québec, Canada H3A 1X6
Telephone: (514) 397-6900
Fax: (514) 395-8554

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